

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

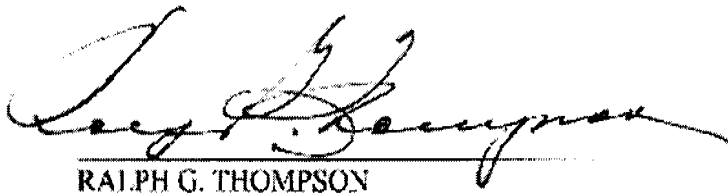
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	NO. CR-98-206-T
)	
CARLOS DION HISHAW,)	NO. CIV-04-28
)	
)	
Defendant.)	

ORDER

The court has received a copy of a pleading filed by defendant in the United States Court of Appeals for the Tenth Circuit which he entitles, "Notice of Appeal Seeking a Certificate of Appealability Pursuant to Title 28 U.S.C. § 2255 and § 2253(c)(2)." The Tenth Circuit Court of Appeals has forwarded that pleading to this court.

The undersigned has previously ruled on defendant's request for a certificate of appealability in its order of March 11, 2005, in which that request was denied. *See* Doc. No. 603, a copy of which is attached hereto. According to the record before the court, there is no other pending motion filed in this court by defendant. To the extent that defendant's current pleading requires a ruling by this court, it is denied as moot.

IT IS SO ORDERED this 29th
day of April, 2005.


RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,)	
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Plaintiff,)	
)	
vs.)	NO. CR-98-206-T
)	
CARLOS DION HISHAW,)	NO. CIV-04-28-T
)	
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Defendant.)	

ORDER

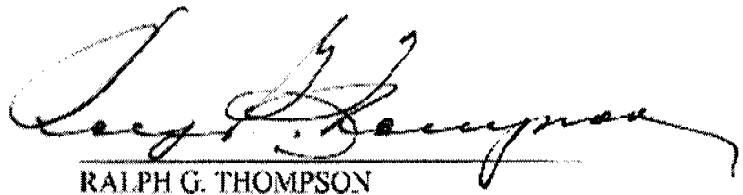
Before the court is the defendant's motion [Doc. No. 600] for a certificate of appealability ("COA") in connection with his appeal of the court's June 23, 2004 order dismissing his request for habeas corpus relief. Defendant previously filed a motion for a COA [Doc. Nos. 590-91], and that motion was denied by this court's order of August 2, 2004 [Doc. No. 592]. However, defendant did not timely receive a copy of the August 2, 2004 order and, by separate order filed herein that date, the court has stricken the order [Doc. No. 592]. The ruling on the motion for a COA is set forth herein.

Defendant is entitled to a COA only upon making a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2254(c)(2). He can make such showing by demonstrating that the issues he seeks to raise are deserving of further proceedings, debatable among jurists of reason, or subject to different resolution on appeal. Slack v. McDaniel, 529 U.S. 473, 483-84 (2000). "Where a district court has rejected the constitutional claims on the merits,...[t]he petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Id.* at

484. When an inmate's habeas petition is dismissed on procedural grounds without reaching the merits of his claims, "a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Id.*

In this case, defendant has not made the requisite showing. Accordingly, his request for a Certificate of Appealability [Doc. No. 600] is DENIED. For the same reasons, his previous request for a Certificate of Appealability [Doc. Nos. 590-91] are also denied.

IT IS SO ORDERED this 11th day of March, 2005.


RALPH G. THOMPSON
UNITED STATES DISTRICT JUDGE